

OPINION
65-453

November 5, 1965 (OPINION)

Mr. Curtis Olson

State Auditor

RE: Veterans Aid Commission - Loans

This is in reply to your letter of October 29, 1965, in regard to the interpretation of section 27-14-06 and 37-14-07 of the North Dakota Century Code. These sections provide as follows:

37-14-06. COMMISSION MAY PROVIDE AID. If the veterans' aid commission is satisfied that such applicant has served as a member of the armed forces of the United States for an aggregate time of not less than thirty days while the United States was at war, that he is a citizen and resident of the State of North Dakota, that he has not been dishonorably discharged, the veterans' aid commission may loan to such applicant, a sum from the veterans' aid fund not to exceed the sum of five hundred dollars."

37-14-07. REPAYMENT TO BE MADE TO AID FUND. Upon the granting of such an application and at the time of such disbursement, the applicant, or his legally appointed guardian, shall be required to execute an agreement with the veterans' aid commission that within a period of two years from the date of the receipt of the last item of such advancement he will repay to the State of North Dakota for the use of said veterans' aid fund the full amount of all advancements made to him without interest."

You ask four specific questions, which are as follows:

1. * * * May any one veteran be granted a repeat loan or a series of repeat loans after having once been granted a \$500 loan which had been repaid to the fund.?"
2. * * * If the veteran moves out of the State of North Dakota, but prior to his move he has met all the requirements of the loan, does this change of residence remove him from the eligibility of the benefits of the Act?"
3. * * * Will the Veterans' Aid Commission be within the law by granting loans to those veterans who had taken part in Dominican crisis and in Viet Nam although neither of these engagements were 'declared or undeclared wars', or is the Veterans Aid limited solely to those veterans who served in the armed forces of the United States during World War?"
4. * * * What procedure should be followed in charging off 'no

good accounts' after all means of collection have been exhausted and that these loans have reached the statutory limit of six years?"

As an example for your first question you cite the following circumstances:

'* * * Veteran made application and received a loan on November 9, 1955, and since that time he had made five loans for a total of \$1310. His last payment due was July 11, 1963, and at that time his unpaid balance was \$230. None of the loans so made were over \$500 as set forth in the Act'."

In reply to your first question, the specific provision of the statute is that "* * * the veterans' aid commission may loan to such applicant, a sum from the veterans' aid fund not to exceed the sum of five hundred dollars." It is our opinion that at no time can the amounts advanced to the veteran from the fund under section 37-14-06 as quoted above exceed five hundred dollars. Thus at the current time the veteran mentioned in the example would be eligible (assuming qualifications were met) for an additional loan of \$270.00.

In reply to your second question, it is our opinion that qualifications specified in section 37-14-06 as quoted above must be met as of the time the commission makes its determination. Thus "* * * If the veterans aid commission is satisfied that such applicant * * * is a citizen and resident of the State of North Dakota * * *", the loan may be made by the veterans' aid commission. The fact that the veteran might be out of the State of North Dakota for a special or temporary purpose (see section 54-01-26 of the North Dakota Century Code) would make no difference. If, of course, the veteran had established residence elsewhere no loan could be made.

In reply to your third question, we quote from a letter written by this office dated October 5, 1965, to Mr. Lloyd F. Zander, Executive Secretary, Veterans' Aid Commission, as follows:

It is clear that such applicant referred to in this preceding section refers back to section 37-14-04 of the North Dakota Century Code, which provides:

'* * * The purpose of the veterans' aid fund is to make loans or advancements to any veteran of the armed forces of the United States in World War II who has not been dishonorably discharged."

This construction would, of course, prohibit anyone who is not a veteran of World War II from participating in the fund."

With reference to existing loans, note Page 2. of the aforementioned letter to Mr. Zander and opinion dated December 20, 1951, Thermofax copies of which are enclosed herewith.

In reply to your fourth question, we note your suggestion that "* * * These accounts once removed from the active file will be held in a reference file in the event that some of these veterans may make application for a loan after their return to North Dakota." While we

recognize that after the statutory six year period has elapsed as set out in the letter from this office (Thermofax copy enclosed), it becomes rather impracticable to continue maintaining an active file on same. A reference file would be appropriate for use of the commission in determining the good faith of future applications for loan and possibly for retaining necessary material for making a final determination as to whether the statutory six year period has actually run with regard to his loan, if the same veteran should come to the attention of the commission at some foreseeable future time.

HELGI JOHANNESON

Attorney General